

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>In re:</b>	:	
	:	
<b>Louis Anthony Telerico</b>	:	<b>Case No.: 17-50236</b>
	:	<b>Chapter 11</b>
<b>Debtor(s).</b>	:	<b>Judge Alan M. Koschik</b>
	:	<b>*****</b>
	:	
	:	

**AMENDED OBJECTION TO CONFIRMATION OF PLAN (DOCKET NUMBER 153)**

Now comes Bank Of America, N.A. ("Creditor") by and through its attorneys, Manley Deas Kochalski LLC, and hereby amends its objection to confirmation of the Amended Chapter 11 plan of Louis Anthony Telerico ("Debtor"). For the reasons which follow, confirmation should be denied.

**MEMORANDUM IN SUPPORT OF OBJECTION**

Debtor and Creditor entered into a One-Time-Close Construction Loan product agreement. Debtor failed to satisfy all the terms of the construction loan. As a result, the loan still remains governed by the Addendum to the Note Construction/Permanent Loan, Construction Rider to the Deed/Mortgage, and Construction Loan Agreement. Debtor must satisfy the terms of the construction loan in order to convert the loan to the permanent loan phase.

In addition, Creditor appraised the property. The appraisal only showed a supported value of \$3.3 million dollars, which was also 'subject to completion per plans and specs'. The 'as is' value was slightly less, showing a value of \$3.2 million dollars. The appraisal also shows that there is \$200,000 in work to be completed; thus lowering the value even more. As evidenced by the difference in value, the completion of the construction will not provide an equal

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increase in the overall value. Therefore, Creditor asserts that there is not a successful modification opportunity for debtor based upon the appraisal, debtor's financials, and outstanding tax liens.

As a result, Creditor is unwilling and unable to convert the loan out of construction and into a permanent first lien mortgage.

In addition, Creditor objects to said treatment and asserts that, as of the petition date herein, Creditor's claim was fully secured by value in the real estate. Section § 1123(b)(5) of the Bankruptcy Code provides that the Plan shall not modify the rights of a holder of a secured claim that is secured only by a security interest in real property that is the debtor's principal residence. Accordingly, § 1123(b)(5) of the Bankruptcy Code prohibits the Debtor's proposed modification of Creditor's mortgage.

WHEREFORE, Creditor respectfully requests the Court to deny confirmation of the Debtor's proposed Amended Chapter 11 Plan.

Respectfully submitted,

/s/Stephen R. Franks

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The case attorney for this file is Stephen R. Franks.

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### **CERTIFICATE OF SERVICE**

This is to certify that on September 28<sup>w</sup>, 2018, a true and accurate copy of the foregoing Objection to Confirmation was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Office of U.S. Trustee, Northern District of Ohio, Party of Interest, (Registered address)@usdoj.gov

Frederic P. Schwieg, Attorney for Louis Anthony Telerico, fschwieg@schwieglaw.com

and on the below listed parties by regular U.S. mail, postage prepaid:

Louis Anthony Telerico, PO Box 928, Aurora, OH 44202

Louis Anthony Telerico, 545 Bristol Drive, Aurora, OH 44202

The below 20 largest unsecured Creditors were served via regular U.S. Mail, postage prepaid on September 28, 2018:

Bank Of America  
Nc4-105-03-14  
Po Box 26012  
Greensboro, NC 27410

Ohio Department of Taxation  
Attn Bankruptcy Division  
PO BOX 530  
Columbus, OH 43216-0530

Ciuni & Panichi  
25201 Chagrin Blvd Ste 200  
Beachwood, OH 44122

Amex  
Correspondence  
Po Box 981540  
El Paso, TX 79998

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Chase Card  
Attn: Correspondence  
Po Box 15298  
Wilmington, DE 19850

Amex  
Correspondence  
Po Box 981540  
El Paso, TX 79998

Johnson Romito Funeral Homes  
521 Broadway Ave  
Bedford, OH 44146

Shapero & Green  
Signature Square II, Suite 220  
25101 Chagrin Blvd  
Beachwood, OH 44122

Discover  
PO Box 742655  
Cincinnati, OH 45274-2655

Dominion Gas  
PO Box 26785  
Richmond, VA 23261-6785

Ohio Edison  
PO Box 3687  
Akron, OH 44309

Mercedes-Benz Financial  
Po Box 685  
Roanoke, TX 76262

/s/Stephen R. Franks

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